



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: LNO - 176061

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on August 5, 2016, under Wis. Admin. Code § DCF 201.07(1)(e), to review a decision by the Department of Children and Families/Wisconsin Works (W-2) regarding W2, a hearing was held on November 2, 2016, by telephone.

The issue for determination is whether the agency may docket a warrant to collect an overissuance of Wisconsin Works benefits.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Children and Families  
201 East Washington Avenue, Room G200  
Madison, WI 53703

By: [REDACTED], of Forward Services Corp for the  
Department of Children and Families/Wisconsin Works (W-2)

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

This hearing was held with a hearing for the father of Petitioner's child (Case # LNO-176081). Both appeals were filed together to contest a Wisconsin Works (W-2) overpayment and the docketing of a warrant to recover the W-2 overpayment. While similar the cases are not identical and separate decisions are issued.

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is currently a resident of [REDACTED] but was a resident of Wisconsin at all times relevant here.

2. Petitioner was sent a Notice of Warrant Docketed in [REDACTED] County dated August 3, 2016. The amount due is noted to be \$5888.90.
3. Petitioner timely appealed the warrant notice.
4. Petitioner was sent a Wisconsin Works Overpayment Notification dated November 20, 2012. It was sent to Petitioner at her address in [REDACTED] at the time of the notice. It does note that an appeal had to be filed within 45 days. The amount of the overpayment was \$5937.00. The reason for the overpayment was that the agency alleged Petitioner and the father (MC) of her child were living together but this was not reported. The notice notes that only Petitioner is liable.
5. Petitioner applied for energy assistance in [REDACTED] on December 4, 2012. Petitioner moved to [REDACTED] sometime after this in December 2012 – most likely mid-month.
6. Petitioner was in phone contact with the economic support agency on January 9, 2013 and reported that she had moved to [REDACTED] and no longer wanted public benefits from Wisconsin.
7. A repayment agreement was sent to Petitioner twice – on 12/4/12 and 2/4/13 – at the [REDACTED] address. Dunning notices of 3/3/13, 4/2/13 and 5/2/13 were all sent to Petitioner at the [REDACTED] address.
8. There is no record here of a request for review of the W-2 overpayment with the W-2 agency.

### **DISCUSSION**

Under *Wis. Stat., §49.195(3m)*, if a person fails to repay a public benefits overpayment, the Department may issue a warrant with the county clerk of court that will impose a lien on property owned by the debtor. This includes Wisconsin Works (W-2) benefits. The *Wisconsin Administrative Code, §DCF 101.23(9)* allows the Department to issue such a warrant if repayment of a W-2 (§49.148, *Stats.*) is delinquent. The person may appeal the warrant to the Division of Hearings and Appeals, but the only issues that the administrative law judge may review are whether the debt is repaid in full or whether there is mistaken identity. *Wis. Adm. Code, §DCF 101.23(9)(a)5*.

There is no question that Petitioner is the correct person and it is evident that \$5888.90 is owed on the debt. In filing this appeal Petitioner seeks to contest the underlying overpayment as well as the warrant but as noted above the hearing issues before the Division of Hearings and Appeals are limited. Further, W-2 overpayment reviews are conducted by the W-2 agency, not the Division of Hearings and Appeals. *See Wis. Stats., §49.152(1)*.

It is not clear why the repayment agreement of February 4, 2013 and the dunning notices were sent to the [REDACTED] address given the January 9, 2013 report of the move to [REDACTED]. Nonetheless, the November 20, 2012 notice informed Petitioner of the 45 day limit for requesting a review from the agency of the overpayment. *Again, see Wis. Stats., §49.152(1)*. That notice was sent to the correct address and Petitioner did not move from that address for at least 2 weeks after the notice given the energy assistance application of December 4, 2012. There is no record or allegation that such a review was requested. I must conclude, therefore, that the Department had authority to docket the warrant.

### **CONCLUSIONS OF LAW**

The Department is authorized to docket the warrant in this case because Petitioner has an outstanding child care overpayment and this is not a case of mistaken identity.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 4th day of January, 2017

\s \_\_\_\_\_  
David D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 4, 2017.

Wisconsin Works (W-2)  
Public Assistance Collection Unit